S.B. CIVIL MISC.APPEAL NO. 1157/2007
(Bhagwan Lal Vs. Gangaram & Anr.)

Date of Order :: 30th July, 2007

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr.Sandeep Saruparia, for the appellant.

By way of this appeal under Section 173 of the Motor Vehicles Act 1988, the claimant seeks enhancement over the amount of Rs.67,483/- together with interest @ 6% per annum from the date of filing of claim application as awarded by the Tribunal towards compensation on account of loss suffered by him due to the injuries sustained in a vehicular accident.

From the injury report Exhibit 6, the Tribunal has noticed the grievous injuries on the person of the claimant appellant, those of fracture of right tibia and fibula bones and dislocation of right ankle joint; and from the medical examination report Exhibit 11 has noticed the extent of his permanent disability at 18%; and in the circumstances of the case has allowed an amount of Rs.43,000/- towards such disablement. The Tribunal has also allowed Rs.3,000/- towards transportation, special diet and incidental expenses. Looking to the nature of injuries and taking notional income of the claimant (22 years in age) at Rs.2,000/-, the Tribunal has

further allowed Rs,6,000/- towards loss of income for three months.

In relation to the treatment expenditure, the Tribunal has examined all the bills produced on record and has observed that their sum total was Rs.20,483/- but the claimant has intentionally altered and increased the amounts of bills Exhibits 28,37,39,44,46,51,54,57,60,61,62 & 66. While commenting that the claimant has not approached with clean hands but taking a lenient view of the matter for the claimant being a Khalasi and a poor person, the Tribunal has considered it proper to deduct an amount of Rs.5,000/- from the sum total of the bills, and has therefore, allowed Rs.15,483/- towards treatment expenditure. In this manner the Tribunal has awarded total compensation in the sum of Rs.67,483/- (43,000+3,000+6,000+15,483) and has allowed interest @ 6% per annum from the date of filing of claim application.

Having heard learned counsel for the appellant and having examined the record, this Court is clearly of opinion that the instant appeal for enhancement of the amount of compensation remains bereft of substance and does not merit admission.

From the injury report Exhibit 6 and X-ray report Exhibit 8, it appears that the claimant-appellant of course suffered

fracture of right tibia and fibula bones and dislocation of right ankle joint. However, in the disablement certificate Exhibit 11 the effect of such injuries on impairing of the powers of member or joint has been stated in the manner that he had pain and difficulty in walking, was limping, was unable to do hard-work, had a deformity with depression of 8” x 3” size at the mid part of the right leg and stiffness of right ankle; and the extent of permanent partial disability has been stated at 18%. In the fact situation of the present case, even though the appellant has otherwise failed to prove his income and the loss of earning capacity, the Tribunal has yet taken a liberal view of the matter and has reasonably allowed Rs.43,000/- with reference to such disablement.

Having examined the record, including the claim application, the statement of the claimant, and the bills produced by him,this court is satisfied that the claimant has not been forthright while making the claim for compensation before the Tribunal; and while filing such altered and interpolated bills, suggested with impunity that about Rs.1.5 lacs were spent in his treatment. It is to be imbibed that claims for compensation are considered for the purpose of providing relief to the sufferers or the victims of the results of vehicular accidents; and it inheres in the process of awarding such compensation that the claimant's own conduct must not be

questionable. When the claimant is found deliberately putting forth a false case, like the present one where a large number of bills of medicines have been filed after altering and increasing their amount, insincerity of the claimant is writ large on the face of the record. The Tribunal has yet been lenient with the claimant in allowing a sum of Rs.15,483/- towards treatment expenditure despite finding that the appellant has interpolated the bills by increasing their amount.

The amount of compensation awarded to the appellant cannot be said to be low or inadequate; and in the over all circumstances of the case there does not appear any scope for enhancement nor the present one appears to be a fit case for considering any enhancement at the instance of the appellant.

The appeal fails and is, therefore, dismissed summarily.

(DINESH MAHESHWARI),J.